

JUL 25 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

RONALD GARY MAESTAS,

Petitioner - Appellant,

v.

MILES LONG,

Respondent - Appellee.

No. 02-17083

D.C. No.
CV-98-00371-KJD/LRL

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Kent J. Dawson, District Judge, Presiding

Submitted July 15, 2003**
San Francisco, California

Before: REINHARDT, SILER***, and HAWKINS, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

*** The Honorable Eugene E. Siler, Circuit Judge, United States Court of Appeals for the Sixth Circuit, sitting by designation.

AEDPA's period of limitation is statutorily tolled during the pendency of an "application for State post-conviction or other collateral review." See 28 U.S.C. § 2244(d)(2); Tillema v. Long, 253 F.3d 494, 498-99 (9th Cir. 2001). Maestas's motion to produce discovery did not challenge his sentence or conviction but was only a preliminary step toward filing a petition for post-conviction or other collateral review. Thus, statutory tolling is inapplicable. Maestas's discovery motion also did not equitably toll the statute. Maestas has not made any showing that any of the documents he sought in his motion to produce discovery could have been relevant to any filing he might have made for either state or federal collateral relief. In the absence of tolling during the time the discovery motion was pending, Maestas's habeas petition is barred by the AEDPA one-year statute of limitations. Accordingly, the decision of the district court is **AFFIRMED**.